



RICHARD J. CODEY
Acting Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
New Jersey State Board of Optometrists
124 Halsey Street, 6th Floor, Newark, NJ 07102



PETER C. HARVEY
Attorney General

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Director

October 20, 2005

Mailing Address:
P.O. Box 45012
Newark, NJ 07101
(973) 504-6440

By Certified and Regular Mail

Janet Swiatocha, O.D.
336 County Road 513
Frenchtown, N.J. 08825

Re: Continuing education credits
Offer of Settlement In Lieu of Filing a Formal Disciplinary Complaint

Dear Dr. Swiatocha:

This letter is to advise you that the New Jersey State Board of Optometrists ("the Board") has had an opportunity to review information concerning the continuing education credits that you obtained in satisfaction of the renewal application for your license to practice optometry for the 2005 to 2007 biennial renewal period as required by N.J.S.A. 45:12-9.3 and N.J.A.C. 13:38-4.5. A review of your renewal application demonstrated that you answered in the affirmative the question regarding completion of the total amount of continuing education credits by April 30, 2005.

On or about June 30, 2005 the Board initiated a random audit of renewal applications for the 2005 to 2007 period, asking licensees to submit proofs with regard to the satisfaction of the fifty (50) continuing education credits which included twenty five (25) credits in therapeutic pharmaceutical agents (TPA) and the remaining credits in general optometric education. The Board considered the correspondence dated July 17, 2005 informing the Board that you believed you had sufficient carry over of credits from the previous renewal period to cover the shortage but cannot prove it because the paperwork was inadvertently discarded by your husband. You also asked the Board for advice on how to rectify the matter.

Upon review of additional correspondence that submitted to the Board determined that you completed 48 continuing education credits as of April 30, 2005. Thus leaving you short two (2) credits as of April 30, 2005. The Board voted to permit you to complete the remaining two (2) credits within thirty (30) days of your receipt of this settlement letter. However, you are advised that the two (2) credits obtained after April 30, 2005 and used to satisfy the credits for the 2005-2007 renewal period will not be accepted for the next biennial renewal.

Upon review of all available information, the Board has preliminarily found that probable cause exists to support a finding that you violated N.J.S.A. 45:12-9.3 and N.J.A.C. 13:38-7.3 in that you did not obtain all of the fifty (50) continuing education credits prior to or by April 30, 2005. Furthermore, the Board does not find that you engaged in the use of misrepresentation in violation of N.J.S.A. 45:1-21(b) by attesting on the renewal application that you will have completed the required continuing education by April 30, 2005 because you believed the shortage would be covered by the carry over credits that you had taken. The Board recognizes that you fell short of the number of credits need to be obtained by April 30, 2005 and accepts your explanation in mitigation of the circumstances and thus will not impose a penalty on this issue.

At this juncture, the Board has preliminarily concluded that the above violations are sufficient to warrant the initiation of formal disciplinary proceedings against you. Notwithstanding that decision, however, the Board has determined that it will first offer you an opportunity to settle this matter, and thereby avoid the initiation of disciplinary proceedings, should you consent to:

1. Cease and desist from failing to obtain the required amount of continuing education credits for the renewal of a license to practice optometry within the specified time frame in future biennial renewals.

2. Complete the two (2) outstanding continuing education credits within thirty (30) days of the signing and accepting of this settlement letter. Written Proofs of the satisfaction of the outstanding credits must be forwarded to the Board to evidence compliance with the terms of this settlement offer.

3. Pay a penalty in the amount of \$250.00 which consists of a penalty of \$250.00 for failing to obtain the 50 continuing education credits on or before April 30, 2005. (to be paid immediately upon your signing of the acknowledgment at the bottom of this letter). Payment shall be remitted in full and shall be made payable to the Board of Optometrists by certified check or money order and forwarded to the attention of Susan Gartland, Executive Director, P.O. Box 45012, 124 Halsey Street, Newark, New Jersey 07101.

If you are willing to settle this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter, and returning it to the Board office. Upon your signature, this letter will be a matter of public record.

In the event you are unwilling to settle this matter on the offered terms, it will be referred to the Attorney General's office for the initiation of appropriate enforcement action. In such event, you will be afforded an opportunity to defend against the alleged violations. If an evidentiary hearing is deemed warranted the Board will either conduct that hearing at a date and time to be scheduled or refer the matter to the Office of Administrative Law. You are advised, however, that in the event formal charges are filed, the Board may assess civil penalties in an amount greater than that herein offered in settlement should any charges against you be sustained. Additionally, the Board may, if the facts are found

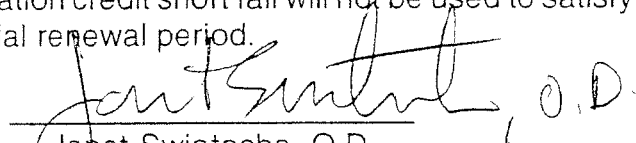
to so warrant, enter an order, requiring you to reimburse certain monies and/or requiring you to pay costs incurred by the Board. Should you have any questions concerning this letter or the settlement offer herein, I suggest that you contact Deputy Attorney General Carmen A. Rodriguez who may be reached at (973) 648-3696.

If you elect to settle this matter presently, you should sign the acknowledgment at the bottom of this letter and return it to the Board within fifteen (15) days following your receipt of this letter. In the event that the Board receives no response from you within fifteen (15) days, the Board's settlement offer will be withdrawn, and the matter will be referred to the Attorney General's Office for the initiation of appropriate enforcement proceedings.

NEW JERSEY STATE BOARD OF
OPTOMETRISTS

By: 
Susan Gartland
Executive Director

ACKNOWLEDGMENT: I, Janet Swiatocha, O.D., hereby acknowledge that I have read and reviewed the settlement proposal set forth in the above letter. I acknowledge the conduct which has been charged. I am aware that, by signing this acknowledgment, I am waiving any rights I may have to defend myself against any charges of wrongdoing at an administrative hearing. I am also aware that the action taken against me by the Board herein is a matter of public record, and that this letter is a public document. I hereby agree to pay a penalty in the amount of \$250.00 (to be paid upon signing of this acknowledgment). I acknowledge that the two (2) continuing education credits that I have satisfied to make up the continuing education credit short fall will not be used to satisfy the credits to be supplied for the next biennial renewal period.


Janet Swiatocha, O.D.

Dated:

cc: Carmen A. Rodriguez, Deputy Attorney General